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Attorneys for Plaintiff Joshua Kairoff and All
Others Similarly Situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

JOSHUA KAIROFF, on Behalf of Himself
and All Others Similarly Situated,

Plaintiff,

vs.

DROPBOX, INC., a Delaware corporation,

Defendant.

CASE NO. CV 11-02508 PJH

**DECLARATION OF DANIEL L.
WARSHAW IN SUPPORT OF MOTION
FOR CONSOLIDATION AND
APPOINTMENT OF INTERIM LEAD
COUNSEL**

Date: August 10, 2011
Time: 9:00 a.m.
Crtrm.: 3, 3rd Floor

The Honorable Phyllis J. Hamilton

Trial Date: None

1 Daniel L. Warshaw declares:

2 1. I am an attorney duly admitted to practice before this Court. I am a partner in the
3 firm of Pearson, Simon, Warshaw & Penny, LLP (hereinafter "Pearson, Simon, Warshaw &
4 Penny" or "PSWP"), attorneys of record for Plaintiff Joshua Kairoff, on behalf of himself and all
5 others similarly situated.

6 2. I am the attorney principally responsible for the handling of this matter. I am
7 personally familiar with the facts set forth in this declaration. If called as a witness I could and
8 would competently testify to the matters stated herein.

9 3. On Joshua Kairoff's behalf, and on behalf of all others similarly situated, I filed
10 this class action lawsuit against Defendant Dropbox, Inc. on May 23, 2011, along with my co-
11 counsel Hausfeld, LLP. I submit this declaration in support of Plaintiff's motion for appointment
12 of interim lead counsel.

13 4. A true and correct copy of Pearson, Simon, Warshaw & Penny's firm resume is
14 attached hereto as Exhibit "A."

15 5. I have extensive experience in complex litigation and class actions. I have
16 represented numerous parties in several dozen complex litigation, class action, consumer
17 protection, and unfair competition cases. I have held a lead role in these cases.

18 6. I currently serve as Co-Lead Counsel in *Wolph v. Acer America Corp.*, a certified
19 class action involving defective Acer computers, that addresses many of the same issues as the
20 instant case will likely present here.

21 7. The attorneys at Pearson, Simon, Warshaw & Penny have represented a wide range
22 of clients in complex litigation and class actions and have obtained hundreds of millions of dollars
23 in settlements and verdicts on behalf of their clients. The following is a partial list of the class
24 actions in which attorneys at Pearson, Simon, Warshaw & Penny have been counsel of record, and
25 in which I played a significant role in the litigation:

26 *In re AEFA Overtime Cases*, Los Angeles County Superior Court,
27 Judicial Council Coordination Proceeding No. 4321. PSWP
28 attorneys served as class counsel in this overtime class action on
behalf of American Express Financial Advisors, which resulted in
an outstanding classwide settlement.

1 *Baker v. Charles Schwab & Co., Inc.*, Los Angeles County Superior
 2 Court, Case No. BC286950. PSWP attorneys served as class
 3 counsel for investors who were charged a fee for transferring out
 assets between June 1, 2002 and May 31, 2003. This case resulted
 in a nationwide settlement.

4 *Castillo v. Pizza Hut, Inc.*, Los Angeles County Superior Court,
 5 Case No. BC318765. PSWP attorneys served as lead class counsel
 6 in this California class action brought by delivery drivers who
 claimed they were not adequately compensated for use of their
 personally owned vehicles. This case resulted in a nationwide class
 settlement.

7 *Eallonardo v. Metro-Goldwyn-Mayer, Inc.*, Los Angeles County
 8 Superior Court, Case No. BC286950. PSWP attorneys served as
 9 class counsel on behalf of a nationwide class of consumers who
 purchased DVDs manufactured by Defendants. Plaintiffs alleged
 10 that Defendants had engaged in false and misleading advertising
 relating to the sale of its DVDs. This case resulted in a nationwide
 class settlement.

11 *Hart v. Central Sprinkler Corporation*, Los Angeles County
 12 Superior Court, Case No. BC176727. PSWP attorneys served as
 13 class counsel in this consumer class action arising from the sale of
 nine million defective sprinkler heads. This case resulted in a
 nationwide class settlement.

14 *Higgs v. SUSA California, Inc.*, Los Angeles County Superior Court
 15 Case No. BC372745. PSWP attorneys are serving as class counsel
 16 with other law firms representing California consumers who entered
 into rental agreements for the use of self storage facilities owned by
 defendants. In this certified class action, plaintiffs allege that
 17 defendants wrongfully denied access to the self storage facility
 and/or charged excessive pre-foreclosure fees.

18 *In re Ipod nano Cases*, Los Angeles County Superior Court, Judicial
 19 Counsel Coordination Proceeding No. 4469. PSWP attorneys were
 20 appointed co-lead counsel for this class action brought on behalf of
 California consumers who owned defective iPod nanos.

21 *Khan v. Denny's Holdings, Inc.*, Los Angeles County Superior
 22 Court, Case No. BC177254. PSWP attorneys settled a class action
 lawsuit against Denny's Restaurants for non-payment of overtime
 wages to its managers and general managers.

23 *Kosnik v. Carrows Restaurants, Inc.*, Los Angeles County Superior
 24 Court, Case No. BC219809. PSWP attorneys settled a class action
 lawsuit against Carrows Restaurants for non-payment of overtime
 25 wages to its assistant managers and managers.

26 *Morales v. Associates First Financial Capital Corporation*, San
 27 Francisco Superior Court, Judicial Council Coordination Proceeding
 No. 4197. PSWP attorneys served as class counsel in this case
 arising from the wrongful sale of credit insurance in connection with
 28

1 personal and real estate-secured loans. This case resulted in an
2 extraordinary \$240 million recovery for the Class.

3 *Nguyen v. First USA N.A.*, Los Angeles County Superior Court,
4 Case No. BC222846. PSWP attorneys served as class counsel on
5 behalf of approximately four million First USA credit card holders
6 whose information was sold to third party vendors without their
7 consent. This case ultimately settled for an extremely valuable
8 permanent injunction plus disgorgement of profits to worthy
9 charities.

10 *Olson v. Volkswagen of America, Inc., et al.*, Central District of
11 California, Case No. CV07-05334. PSWP attorneys served as class
12 counsel in a class action against Volkswagen of America and Audi
13 of America. The lawsuit alleged that the 1999 Volkswagen Passat,
14 the 2000-2003 Audi TT, and the 2000-2003 Audi A4 equipped with
15 a 1.8 liter turbo engine, had defectively designed timing belt systems
16 and defective service and inspection intervals for the timing belt
17 system. The lawsuit resulted in a settlement which provided for a
18 full refund of repair charges associated with class members who
19 suffered past timing belt failures and an extended warranty that will
20 protect class members against expenses incurred from future timing
21 belt failures.

22 *Wolph v. Acer America Corp.*, Northern District of California, Case
23 No. C 09-01314. PSWP attorneys currently serve as Co-Lead
24 Counsel with Hausfeld LLP in this certified nationwide class action
25 involving defective Acer computers.

26 8. The attorneys of Pearson, Simon, Warshaw & Penny have been involved in
27 numerous high profile class actions, including many in the Northern District of California. *See,*
28 *e.g., In re TFT-LCD (Flat Panel) Antitrust Litigation; In re Flash Memory Antitrust Litigation; In*
re Cathode Ray Tube (CRT) Antitrust Litigation; Wolph v. Acer American Corp. I, with co-
counsel, am currently supervising the document review in the *In Re TFT-LCD (Flat Panel)*
Antitrust Litigation which involves in excess of 6 million documents in multiple languages and a
review team spread across the country. Further, I am currently managing the document review
and negotiating Electronically Stored Information (“ESI”) protocols in the *In Re CRT Antitrust*
Litigation matter.

9. Many of the class actions in which Pearson, Simon, Warshaw & Penny has been
appointed as Class Counsel have been consumer fraud cases. *See, e.g., Baker v. Charles Schwab*
& Co., Inc.; Eallonardo v. Metro-Goldwyn-Mayer, Inc.; Hart v. Central Sprinkler Corporation;

1 *Morales v. Associates First Financial Capital Corporation; Olson v. Volkswagen of America, Inc.,*
2 *et al.*

3 10. Pearson, Simon, Warshaw & Penny has the financial resources necessary to
4 effectively represent the Class. With offices located in Los Angeles and San Francisco, Pearson,
5 Simon, Warshaw & Penny is strategically located and able to commit the resources necessary to
6 litigate this case vigorously to its conclusion.

7 11. I served as a contributor for two Rutter Group practice guides, *Federal Civil Trials*
8 *and Evidence* and the upcoming publication, *Civil Claims and Defenses*. My work on the *Civil*
9 *Claims and Defenses* publication related to California consumer protection statutes.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct.

12 Executed on June 17, 2011, at Sherman Oaks, California.

13
14 _____/s/

15 Daniel L. Warshaw
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EXHIBIT “A”



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Pearson, Simon, Warshaw & Penny, LLP ("PSWP") is an AV-rated civil litigation firm with offices in Los Angeles and San Francisco. The firm specializes in complex litigation, including state coordination cases as well as federal multidistrict litigation. Its attorneys have extensive experience in antitrust, consumer protection, securities fraud, and unlawful employment practices. The firm handles both national and multi-national class actions that present cutting edge issues in both substantive and procedural areas. PSWP attorneys understand how to litigate difficult and large cases in an efficient and cost effective manner, and they have used these skills to obtain outstanding results for their clients, both through trial and negotiated settlement. They are recognized in their field for excellence and integrity, and are committed to seeking justice for their clients.

CASE PROFILES

PSWP attorneys currently hold, or have held, a leadership role in the following class actions:

- *Wolph v. Acer Computer Corporation*, Northern District of California, Case No. CV09-1314. PSWP attorneys are serving as class counsel in this class action lawsuit which alleges that Acer sold notebook computers with insufficient memory to run the Windows Vista operating system. This case was certified as a nationwide class action and the litigation is pending.
- *Higgs v. SUSA California, Inc.*, Los Angeles County Superior Court Case No. BC372745. PSWP attorneys are serving as class counsel with other law firms representing California consumers who entered into rental agreements for the use of self storage facilities owned by defendants. In this certified class action, plaintiffs allege that defendants wrongfully denied access to the self storage facility and/or charged excessive pre-foreclosure fees.

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- *Olson v. Volkswagen of America, Inc.*, Central District of California, Case No. CV07-05334. PSWP attorneys brought this class action lawsuit against Volkswagen alleging that the service manual incorrectly stated the inspection and replacement intervals for timing belts on Audi and Volkswagen branded vehicles equipped with a 1.8 liter turbo-charged engine. This case resulted in a class-wide settlement.
- *In re TFT-LCD (Flat Panel) Antitrust Litigation*, Northern District of California, MDL No. 1827. PSWP partner Bruce L. Simon is currently serving as interim co-lead counsel for the direct purchaser plaintiffs in this multidistrict litigation arising from the price-fixing of thin film transistor liquid crystal display panels. Worldwide, the TFT-LCD industry is a \$69 billion industry, and many believe that this proceeding is one of the largest price-fixing cases currently pending in the United States.
- *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, Northern District of California, MDL No. 1486. PSWP partner Bruce L. Simon served as co-chair of discovery and as a member of the trial preparation team in this multidistrict litigation arising from the price-fixing of DRAM, a form of computer memory. Mr. Simon was responsible for supervising and coordinating the review of almost a terabyte of electronic documents, setting and taking depositions, establishing and implementing protocols for cooperation between the direct and indirect plaintiffs as well as the Department of Justice, presenting oral arguments on discovery matters, working with defendants on evidentiary issues in preparation for trial, and preparation of a comprehensive pretrial statement. Shortly before the scheduled trial, class counsel reached settlements with the last remaining defendants, bringing the total value of the class settlements to over \$325 million.
- *Gergel v. Best Buy Co., Inc., et al.*, Central District of California, Case No. CV06-2399 GPS. PSWP attorneys brought a class action lawsuit against Best Buy Co., Inc., America Online, Inc., and Time Warner, Inc. alleging violations of California's consumer protection laws. The lawsuit alleged that Plaintiffs were enrolled in AOL internet service without permission during purchase transactions at Best Buy retail stores. Plaintiffs also alleged that they incurred unauthorized charges to their credit cards. The case resulted in a class-wide settlement.
- *In re Bluetooth Headset Products Liability Litigation*, Case No. 07-ml-1822-DSF. PSWP brought this class action against the manufacturers of Bluetooth Headsets.

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Plaintiffs, alleging that the Bluetooth Headsets produced by Defendants emit defectively high decibel levels that damage users' ears and induce hearing loss, and that Defendants' Bluetooth Headsets do not have adequate warnings to alert consumers of the dangers of ear damages and hearing loss. The case resulted in a class-wide settlement.

- *Hart v. Central Sprinkler Corporation*, Los Angeles County Superior Court, Case No. BC176727. PSWP attorneys served as class counsel in this consumer class action arising from the sale of nine million defective fire sprinkler heads. This case resulted in a nationwide class settlement.
- *Rueda v. Schlumberger Resources Management Services, Inc.*, Los Angeles County Superior Court, Case No. BC235471. PSWP attorneys served as class counsel with other law firms representing customers of the Los Angeles Department of Water & Power ("LADWP") who had lead leaching water meters installed on their property. The Court granted final approval of the settlement whereby defendant would pay \$1.5 million to a *cy pres* fund to benefit the Class and to make grants to LADWP to assist in implementing a replacement program to the effected water meters.
- *In re Louisiana-Pacific Corp. Inner-Seal OSB Trade Practices Litigation*, Northern District of California, MDL No. 1114. PSWP partner Bruce L. Simon worked on this nationwide product defect class action brought under the Lanham Act. The proposed class was certified, and a class settlement was finally approved by Chief Judge Vaughn Walker.
- *In re iPod nano Cases*, Los Angeles County Superior Court, Judicial Counsel Coordination Proceeding No. 4469. PSWP attorneys were appointed co-lead counsel for this class action brought on behalf of California consumers who own defective iPod nanos. The case resulted in a class-wide settlement.
- *Unity Entertainment Corp. v. MP3.Com*, Central District of California, Case No. 00-11868. PSWP attorneys served as defense counsel in this class action alleging copyright infringement.
- *Vallier v. Jet Propulsion Laboratory*, Central District of California, Case No. CV97-1171. PSWP attorneys served as lead counsel in this toxic tort action involving 50 cancer victims and their families.

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- *Nguyen v. First USA N.A.*, Los Angeles County Superior Court, Case No. BC222846. PSWP attorneys served as class counsel on behalf of approximately four million First USA credit card holders whose information was sold to third party vendors without their consent. This case ultimately settled for an extremely valuable permanent injunction plus disgorgement of profits to worthy charities.
- *Morales v. Associates First Financial Capital Corporation*, San Francisco Superior Court, Judicial Council Coordination Proceeding No. 4197. PSWP attorneys served as class counsel in this case arising from the wrongful sale of credit insurance in connection with personal and real estate-secured loans. This case resulted in an extraordinary \$240 million recovery for the Class.
- *In re AEFA Overtime Cases*, Los Angeles County Superior Court, Judicial Council Coordination Proceeding No. 4321. PSWP attorneys served as class counsel in this overtime class action on behalf of American Express Financial Advisors, which resulted in an outstanding classwide settlement.
- *Khan v. Denny's Holdings, Inc.*, Los Angeles County Superior Court, Case No. BC177254. PSWP attorneys settled a class action lawsuit against Denny's for non-payment of overtime wages to its managers and general managers.
- *Kosnik v. Carrows Restaurants, Inc.*, Los Angeles County Superior Court, Case No. BC219809. PSWP attorneys settled a class action lawsuit against Carrows Restaurants for non-payment of overtime wages to its assistant managers and managers.
- *Castillo v. Pizza Hut, Inc.*, Los Angeles County Superior Court, Case No. BC318765. PSWP attorneys served as lead class counsel in this California class action brought by delivery drivers who claimed they were not adequately compensated for use of their personally owned vehicles. This case resulted in a statewide class settlement.
- *Baker v. Charles Schwab & Co., Inc.*, Los Angeles County Superior Court, Case No. BC286131. PSWP attorneys served as class counsel for investors who were charged a fee for transferring out assets between June 1, 2002 and May 31, 2003. This case resulted in a nationwide class settlement.
- *Eallonardo v. Metro-Goldwyn-Mayer, Inc.*, Los Angeles County Superior Court, Case No. BC286950. PSWP attorneys served as class counsel on behalf a nationwide class

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of consumers who purchased DVDs manufactured by defendants. Plaintiffs alleged that defendants engaged in false and misleading advertising relating to the sale of its DVDs. This case resulted in a nationwide class settlement.

- *Gaeta v. Centinela Feed, Inc.*, Los Angeles County Superior Court, Case No. BC342524. PSWP attorneys served as defense counsel in this class action involving alleged failures to pay wages, overtime, employee expenses, waiting time penalties, and failure to provide meal and rest periods and to furnish timely and accurate wage statements.
- *Leiber v. Consumer Empowerment Bv A/K/A Fasttrack*, Central District of California, Case No. CV 01-09923. PSWP attorneys served as defense counsel in this class action involving copyrighted music that was made available through computer file sharing service without the publishers' permission.

ATTORNEY PROFILES

Following are brief professional biographies of PSWP's founding partners:

Clifford H. Pearson

Clifford H. Pearson is a civil litigator and business lawyer with extensive experience in complex litigation, class actions, and unfair competition law. Mr. Pearson has been involved in the successful prosecution of numerous class actions, including *Hart v. Central Sprinkler Corporation*, *In re Homestore.com Securities Litigation*, among others. He is a member of the State Bar of California; U.S. District Court, Central District of California; U.S. District Court, Southern District of California; U.S. Court of Appeals, Ninth Circuit; and a Practitioner of Foreign Law in British Columbia, Canada. He attended Carleton University (B.A., 1976); the University of Miami (M.B.A., 1978); and Whittier College (J.D., 1981).

Mr. Pearson has attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards. In 2006, Mr. Pearson was selected as a Super Lawyer, representing the top 5% of practicing lawyers in Southern California. Mr. Pearson is an active member in the American Bar Association; Canadian American Bar Association; Los Angeles County Bar Association; The American Association for Justice; and the Consumer Attorneys of California.

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Bruce L. Simon

Bruce L. Simon specializes in complex cases involving antitrust, consumer fraud, and securities. Mr. Simon has served as lead or co-lead counsel in several nationwide antitrust class actions, including *In re Sodium Gluconate Antitrust Litigation* (N.D. Cal., MDL No. 1226), an antitrust case involving a food additive product; *In re Methionine Antitrust Litigation* (N.D. Cal., MDL No. 1311), an antitrust class action that resulted in over \$100 million in settlements; and *In re Citric Acid Antitrust Litigation* (N.D. Cal., MDL No. 1092), which resulted in over \$80 million in settlements for direct purchasers. He was also lead counsel in *In re Louisiana Pacific Corp. Inner-Seal OSB Trade Practices Litigation* (N.D. Cal., MDL No. 1114), a product defect case involving a plywood substitute known as oriented strand board, and *In re Behr Wood Sealant Litigation*, a Washington state court case which resulted in over \$100 million in settlement of claims which related to defective wood sealants.

More recently, Mr. Simon served as co-chair of discovery and as a member of the trial preparation team in *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation* (N.D. Cal., MDL No. 1486), which settled for over \$325 million to the direct purchaser class. In that case, Mr. Simon was one of the principal attorneys involved in supervising the review of a multi-million page electronic document production and the taking of over 100 depositions, all in coordination with the indirect purchaser plaintiffs and the government. Currently, Mr. Simon is serving as interim co-lead counsel for the direct purchaser plaintiffs in *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D. Cal., MDL No. 1827), *In re Flash Memory Antitrust Litigation* (N.D. Cal., Case No. C07-0086 SBA), and *In re Hawaiian and Guamanian Cabotage Antitrust Litigation* (W.D. Wash., MDL No. 1972).

Mr. Simon has also litigated and tried securities and investment fraud cases, and has particular expertise in cases where the fraud was committed with the assistance of professionals. He tried the Osborne Securities case in Santa Clara County and won a multi-million dollar jury verdict after a three month trial. That case involved critical issues about the responsibilities of accountants and eventually resulted in a decision by the California Supreme Court, setting standards for accounting liability in California. He also represented Union Bank in a case against a national accounting firm, and obtained a \$7 million jury verdict after a two month trial.

Mr. Simon is a frequent speaker on trial strategies in business cases, and has lectured throughout the United States and internationally. He is currently the Litigation Vice-Chair for the Antitrust Law Section of the American Bar Association. He is a past chair of the California State Bar's Antitrust and Unfair Competition Section and the Business Torts Section of the American Trial Lawyers Association. Mr. Simon is the co-author of the

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Matthew Bender Practice Guide: California Unfair Competition and Business Torts (2004), which provides in-depth and practical coverage of the state's Unfair Competition Law, as well as antitrust law and other commonly prosecuted business torts.

Mr. Simon earned a bachelor's degree in political science at the University of California at Berkeley in 1977. He received his law degree from Hastings College of Law in 1980. He currently serves on the Board of Directors for Hastings College of the Law.

Daniel L. Warshaw

Daniel L. Warshaw is a civil litigator and trial lawyer who focuses on complex litigation, class actions, employment law, business litigation, products liability, consumer protection, and unfair competition law. Mr. Warshaw has had a lead role in numerous class actions, both in state and federal court. He is currently involved in antitrust class actions involving the airline and semiconductor industries. In addition, he is actively involved in PSWP's ongoing investigations of the high technology industry for possible antitrust violations.

Mr. Warshaw is a member of the State Bar of California; U.S. District Court, Central District of California; U.S. District Court, Northern District of California; U.S. District Court, Southern District of California; and U.S. Court of Appeals, Ninth Circuit. He attended the University of Southern California (B.S., 1992); and Whittier College School of Law (J.D., 1996). He has attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards.

Mr. Warshaw is a member of the Los Angeles County Bar Association, American Bar Association, and Consumer Attorneys of California. From 2005 to the present, Mr. Warshaw was selected as a Super Lawyer, representing the top 5% of practicing lawyers in Southern California.

Mr. Warshaw worked as a research attorney and assisted in the preparation of Jones, Rosen, Wegner & Jones, *Rutter Group Practice Guide: Federal Civil Trials & Evidence*.

Theodore A. Penny

Theodore A. Penny is a civil litigator focusing on workers compensation, subrogation, and employment law. Mr. Penny is a member of the State Bar of California and a Certified Specialist, Workers' Compensation Law, The State Bar of California Board of Legal

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Specialization. He attended the University of California at Los Angeles (B.A., cum laude, 1971); and University of Southern California (J.D., 1974). Mr. Penny has attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards. He served as a frequent lecturer for industry and academic groups, including lecturer at UCLA Extension, California Self Insurance Association, and California Manufacturers Association.

Mr. Penny served as Technical Advisor for the California Manufacturers Association; Workers' Compensation Committee, legislative advisory counsel for California Chamber of Commerce, 1994; General Counsel, Californians for Workers' Compensation Reform, 2000 – 2002; and General Counsel, Independent Business Coalition, 2004. He is currently a member of the workers' compensation appellate committee of the California Chamber of Commerce, the Los Angeles County Bar Association (Member, Executive Board, Workers' Compensation Section), and American Bar Association. In 2006, Mr. Penny was selected as a Super Lawyer, representing the top 5% of practicing lawyers in Southern California.